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To: Microsoft ATR
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Subject: Microsoft Settlement

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I would like to take advantage of the public comment period on the proposed Microsoft settlement to raise a few points.

The current proposed settlement is wholly inadequate. It merely formalizes the status quo. It does not penalize Microsoft for past transgressions in any meaningful way, nor will it prevent them from abusing their monopoly in the future. It is my belief that a very strong set of strictures must be placed on convicted monopolists to insure that they are unable to continue their illegal activities. I do not think that the proposed settlement is strong enough to serve this function.

I have likewise been very concerned with how this settlement was reached. It was done hastily and with little long-term thought. It is more important that we come up with a correct and effective remedy, than a quick "resolution".

Any proposed remedies must include open, complete, and full disclosure of all of the following Microsoft technologies: APIs (Application Programming Interfaces) -- especially to their operating systems; document file formats; and wire protocols. Said disclosures must apply not only to existing technologies, but any future releases as well. Failure to implement such a provision will allow them to continue to leverage their monopoly power.

Furthermore, any remedy imposed must consider the Open Source / Free Software movement that has gained momentum over the last several years. (For further reading, see <http://www.opensource.org> and <http://www.gnu.org>.) Perhaps more than any other phenomenon, Open Source Software represents a real, credible threat to Microsoft's monopoly. The current proposed settlement fails to address Open Source Software at all and in fact contains language that could seriously undermine it. The example I am thinking of is the proviso where Microsoft would have to disclosure some information to other commercial entities. This implicitly suggests that they could happily keep that same informatino secret from the Open Source community, making it difficult (if not impossible) for them to write software that could interoperate with Microsoft's. This is not acceptable. (Not coincidentally, the government could set a good example by replacing Microsoft software with Open Source alternatives.)

Perhaps the greatest abuse that Microsoft is capable of is using the government-granted protections on its intellectual property as a way to bludgeon competitors. If Microsoft is allowed to use it's patents, copywrites,

or trademarks as a means of preventing other people from publishing software that could interoperate with -- or replace -- Microsoft's software, then the government will end up being the largest part of the problem. With that in mind, a provision should be put in place which explicitly states that Microsoft be allowed to use its patents for defense only.

The world is watching. Numerous other countries have announced their intent to pursue Microsoft under their own antitrust laws, including Australia, Japan, and the European Union. (Some have even begun already.) Many countries are waiting to see what actions the US will take, and then follow suit. We can set a good example by coming up with an effective, just, long-term solution. The current proposed set of remedies are inadequate; we cannot afford to set a bad example. Please keep in mind that Microsoft has a world-wide influence and that we must act with that in mind.

Much of the discussion regarding a settlement has been couched in the need for aiding our slumping economy. I would submit to you that the current economic slump has occurred not in spite of Microsoft, but **because** of Microsoft. I have personally both seen and experienced the deleterious effect that Microsoft has had on this industry. In the state of Utah where I live, numerous people (including myself) who work in the Information Technology industry have lost their jobs precisely because Microsoft has used their monopoly influence to crush them. Examples include: Novell, DriverSoft, WordPerfect, and Caldera. This is far from a complete list. The damage done by the Microsoft monopoly is neither theoretical nor anecdotal; it is real and tangible. If we make a hasty settlement now for the sake of the economy, we will be gambling on a dubious short-term gain and ensuring continued long-term pain.

Don't soft-pedal this one. Executives at Microsoft have demonstrated that they are not repentant for their past misdeeds. Witness how they have continued to leverage their monopoly power by bundling Windows Media Player in the most recent release of their Windows XP operating system. The sole reason for this was to crush Real, the only real competition they have in streaming media.

Microsoft executives are not honorable people. Witness how they falsified evidence and perjured themselves in federal court during the hearings. They have publicly rejected the assertion that they are a monopoly. And have insinuated that whatever remedies the government imposes, they can "work around" them so as to continue with Business As Usual. Whatever remedies are put in place, you must assume that Microsoft **will** violate them and be prepared to enforce the remedies by levying additional fines and punishments.

Thank you for your time. I hope you will consider sincerely the points I have raised.

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